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APPLICATION NO.	FII	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,179 11/25/2003		Cin Kim	04394/0200136-US0	1178	
7278	7590	05/19/2006		EXAMINER	
DARBY & P. O. BOX 5	•	P.C.	MAI, TRI M		
NEW YORK, NY 10150-5257				ART UNIT	PAPER NUMBER
				3727	
				DATE MAILED: 05/19/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/707,179	KIM, CIN				
Office Action Summary	Examiner	Art Unit				
	Tri M. Mai	3727				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 66(a). In no event, however, may a reply be time fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	I. sely filed the mailing date of this communication.  D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on	_•					
2a) This action is <b>FINAL</b> . 2b) ⊠ This	action is non-final.					
3) Since this application is in condition for allowar	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	33 O.G. 213.				
Disposition of Claims						
<ul> <li>4)  Claim(s) 1-13 is/are pending in the application.</li> <li>4a) Of the above claim(s) is/are withdraw</li> <li>5)  Claim(s) is/are allowed.</li> <li>6)  Claim(s) is/are rejected.</li> <li>7)  Claim(s) is/are objected to.</li> <li>8)  Claim(s) 1-13 are subject to restriction and/or expressions.</li> </ul>	vn from consideration.					
Application Papers						
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) access applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examine 10.	epted or b) objected to by the formal drawing (s) be held in abeyance. See ion is required if the drawing (s) is objected to by the formal drawing (s) is objected in the drawing (s) is objected to by the formal drawing (s) be held in abeyance.	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	•				

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## **DETAILED ACTION**

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## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 12-13, drawn to a method of packaging, classified in class 53, subclass
     430.
  - II. Claims 1-11, drawn to a container, classified in class 206, subclass 278.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product claim does not require a necktie while the method claims require a necktie. The package as claimed can be configured to hold other items other than necktie, i.e., disposable masks, gloves, etc. Furthermore, the product claim does not require the covering of the member with a second portion of the necktie since a necktie is not claimed.
- 3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
- 4. This application contains claims directed to the following patentably distinct species:

Group A: the container in figures 2a-2c,

Group B: the container in figures 3a-3b, and

Group C: the container in figures 4-5c.

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The species are independent or distinct because the patentability relies on the specificities of the retaining members. In this case, the retaining member made from one elastic member is independent from the retaining member made from two separate metal-coated retainers.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

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Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727